IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 23631 of 2007(L)

PETITIONER:

F.SHAMSUDEEN,
HOUSE NO.110, T.J.R.A., GOLF LINKS KOWDIAR,
TRIVANDRUM.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
IT'S SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.

2. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY IT'S SECRETARY,
CORPORATION OFFICE, THIRUVANANTHAPURAM.

R1 BY GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR.
R2 BY SC SRI. N. NANDAKUMARA MENON.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.23631 of 2007

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Dated this the 6th day of August, 2007

JUDGMENT

Petitioner has approached this court feeling aggrieved by the proceedings commenced to demolish the building. Ext.P5 is the memo given by the respondent Corporation. Ext.P5(a) is the notice under Section 406 (1) and (2) of the Kerala Municipality Act. Petitioner submitted Ext.P6 representation.

2. I heard learned counsel for the respondents also.

3. Prayers in the writ petition are to quash Exts. P5 and P5(a), grant regularisation for the works done and to direct the respondents not to initiate any steps for demolition of the petitioner's building. According to the learned counsel for the petitioner, the petitioner is entitled to the benefit of Section 383A of the Kerala Municipality Act.

4. Learned counsel for the respondent Corporation submits that no final order has been passed and only a provisional order is issued and hearing is posted to 9.8.2007.

In view of the fact that Ext.P5(a) is only a provisional order, I

feel that the petitioner should await a final decision. Since it is submitted that hearing is posted to 9.8.2007, I make it clear that it is open to the petitioner to produce any further materials also before the second respondent, who will consider the same and take a decision in accordance with law. It is open to the petitioner to seek regularisation also of the construction, if such regularisation is permissible in law. It is open to the petitioner to represent his cause through a representative before the second respondent.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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